IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

**WRIT PETITION NO : 11444 of 2002**

Between:

Smt.Akbar Jahanara Begum, W/o.M.A.Khader,
V.S.S.N.Bharathi Upper Primary School, Balasamudram,
Hanamkonda, Warangal District.

..... PETITIONER

**AND**

1. The District Educational Officer, Warangal.
2. The Director of School Education Andhra Pradesh, Hyderabad.
3. The Government of Andhra Pradesh, Rep.by its Secretary, Education Department, Secretariat, Hyderabad.
4. The Secretary Correspondent V.S.S.N.Bharathi Upper Primary School, Balasamudram, Hanamkonda, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandmaus declaring that the petitioner is entitled to be treated as having been absorbed in grant-in-aid post with effect from 1-9-1994 with all consequential benefits including arrears of pay, increments and Revised pay scales etc., by holding the action of the respondents in not existing the said on the pretext of the date of her absorption in grant-in-aid post on the pretext of one reason or the other on the ground that she has not acquired intermediate qualification while extending the said benefit to other similarly persons vide G.O.Ms.No.547, Education., dated 14-9-2001 is as illegal, arbitrary, discriminatory, and violative of Articles 14,16 and 21 of the Constitution of India and also opposed to the dictum of law laid down by the Hon'ble High Court.

**Counsel for the Petitioner: MR.D.LINGA RAO**
**Counsel for the Respondents 1 to 3: GP FOR SCHOOL EDUCATION**
**Counsel for the Respondent No.4: None present**

The Court made the following:

**THE HON'BLE SRI JUSTICE B.PRAKASH RAO**

**W.P.NO.11444 OF 2002**

**ORDER:**

Heard Sri D.Linga Rao, learned counsel appearing for the petitioner and the learned Government Pleader for School Education appearing on behalf of the respondents 1 to3. None appears on behalf of the respondent No.4, though notice was served.

The petitioner herein, who is working as Secondary Grade Teacher with the respondent No.5-Institution, seeks a writ of Mandamus for a declaration that she is entitled to be treated as having been absorbed in grant-in-aid post with effect from01.09.1994 with all consequential benefits including arrears of pay, increments and revised pay scales etc. by holding the action of the respondents in not extending the said benefits from the date of her absorption in grant-in-aid post on the pretext of one reason or the other on the ground that she has not acquired Intermediate qualification while extending the said benefit to other similarly situated persons vide G.O.Ms.No.547 Education, dated 14.9.2001 as illegal, arbitrary, discriminatory and violative of Articles, 14,16 and 21 of the Constitution of India.

The claim of the petitioner is that she passed SSC in 1969 and also passed the certificate course in Domestic Science (two years) conducted by the Department of Technical Education, A.P., Hyderabad in May, 1974 and also Hindi Bushan in September, 2001. The petitioner was selected and appointed as Secondary Grade

Teacher in V.S.S.N. Bharathi U.P.S. Balasamudram, Hanamkonda, Warangal District vide proceedings No.2/APA/84, dated 25.5.1984 issued by the 4th respondent and since then she has been in service. Later on she was confirmed in the said post and absorbed as S.G. Teacher, grant-in-aid in 4th respondent-institution with effect from 1.9.1994 as per proceedings Rc.No.2411/C3/1994-95, dated 17.4.1999. It is pointed out that the holders of diploma in Domestic Science with two years training were made eligible for appointment as Secondary Grade Teacher by virtue of proceedings dated 11.8.1964 and the proceedings dated 2.4.1993. As per which the training certificate of domestic science of two years duration was treated as equivalent to Secondary Grade or Senior Basic Grade Trained School Leaving Certificate Examinations, A.P., Hyderabad for the purpose of appointment as S.G. or Senior Basic Grade Teacher in the State. It was pointed out that on the date of appointment to the Secondary Grade Teacher minimum General qualification was TTC or its equivalent qualification as per Rule 12 read with Schedule to the General Rules. Therefore, the petitioner contends that she possess the minimum General Educational qualification i.e. SSC and also Diploma in domestic Science, which is equivalent to TTC. It is complained that in spite of having the requisite qualification, the respondents have not released the increments and other benefits due to her since her appointment on the ground that she did not possess intermediate, even though with the same qualification of SSC and domestic science, persons similarly placed were given the regular scale and increments and other benefits, to which she is also entitled. This is pointed out that in the similar circumstances, a case was allowed in W.P.No.10017 of 1995 dated 30.07.1998,

which was following a Judgment of the Division Bench in W.P.No.415 of 1990, wherein it was held that an S.S.L.C candidate with diploma in domestic science appointed prior to 1.2.1990 is equivalent with Secondary Grade teachers appointed after 1.2.1990 and they are entitled for grant-in-aid post and directed that they should be treated as regular Secondary Grade Basic Trained Teacher and admitted to grant-in-aid post and with further direction to pay arrears within four weeks from the date of receipt of the copy of the order. It was further pointed out that the said judgment was implemented by the Government in G.O.Rt.No.547, Education, dated 14.9.2001, approving the absorption of the petitioner therein in S.G.T post from the date of her joining in the said post with all consequential benefits. It is further pointed out that as per G.O.Ms.o.354 Education, dated 25.9.1998, the two year Teacher Training Certificate in domestic Science awarded by the State Board of Technical Education and Training, Hyderabad is equivalent to that of Secondary Grade Basic Trained Certificate of Andhra Pradesh for the purpose of recruitment as S.G. Teacher in the State. In view the aforesaid reasons, the petitioner states that the action of the respondents is illegal, arbitrary, discriminatory and subversive of Article 14,16 and 21 of the Constitution of India. Hence, this writ petition.

In the counter affidavit filed on behalf of the respondents herein, though admitting her appointment to the respondent No.4, the claim of the petitioner is denied. It was stated that the petitioner did not hold the minimum qualification. Since the petitioner's appointment is conditional, as per G.O.Ms.No.354 dated 25.9.1998, the candidates who obtained diploma in domestic Science from the State Board of Technical Education and Training prior to1.2.1990 and those who are undergoing

the said training as on 1.2.1990 and obtained certificate subsequently are also eligible for appointment as Secondary Grade Teachers provided they have minimum educational qualifications as required for the post of S.G.T. i.e. Intermediate and they are otherwise qualified for holding the post. The said G.O. indicates that who acquired intermediate qualification and diploma in domestic science are entitled to be appointed as Secondary Grade Teachers. The petitioner holds only S.S.C. qualification, as such, she is not eligible. It was also pointed out that the Government in G.O.Ms.No.169, dated 19.2.1975 introduced T.T.C. from the academic year 1975-76 and minimum qualification is Intermediate. In view of the same, the petitioner nowhere comes nearer to the qualification as contemplated and the petitioner cannot seek any claim. It was stated that the decision referred to by the petitioner is not applicable to the facts of the case. Placing reliance on Rule 5 of the A.P.E.S.S. Rules, once again reiterated that the petitioner did not possess the minimum general educational qualification i.e. intermediate qualification. The petitioner, who possesses S.S.C. qualification together with domestic Science Course, cannot be equated with the persons who acquired intermediate and T.T.C. Therefore, it is stated that there are no merits in the writ petition.

After hearing learned counsel on either side in detail and also perusing the material on record, the only question that arises for consideration is as to whether on the facts and circumstances the petitioner is entitled to the benefits as claimed?

There is no dispute as to the fact that the petitioner holds initially S.S.C. certificate and later a certificate Course in Domestic Science of two years conducted by the Department of Technical Education and also Hindi Bushan and subsequently

selected and appointed as S.G.T in the 4th respondent institution on 25.5.1984. Thereby, the same was confirmed and absorbed in the said post. The only dispute is with regard to the entitlement of benefits on appointment of Secondary Grade Teacher. Now the point is as to whether the petitioner is having requisite qualification and hold the intermediate certificate basically and T.T.C. certificate. During the course of arguments, having regard to the fact that the rules made in G.O.Ms.No.547 Education, dated 14.9.2001 have been struck down and W.P.No.10017of 1995, dated 30.07.1998 was allowed and therefore, I hold that the rules which have been issued under G.O.Ms.No.354 dated 28th June, 1993 is in force and therefore, she is entitled to all such benefits. It is relevant to take note of the fact that there is no dispute in regard to the directions given by this Court in the W.P.No.10017 of 1995 dated 30.6.1998 and the same being implemented by the respondent vide G.O.Ms.No.547, dated 14th September, 2001. In the said judgment it was held that the said both qualifications are to be treated as equivalent. Further, it is now brought to the notice that the Rules in G.O.Ms.No.538, dated 28th November,1998, have struck down by this Court in the aforesaid decision and no new rules have been brought into force. There cannot be any dispute to the fact that the petitioner also virtually stand to gain much, apart from holding that on the same lines one covered in the earlier decision and more so in view of the new rules having come into force, the denial of petitioner's claim is wholly unsustainable and the same requires to be reconsidered in proper perspective. The rejection is merely on the ground of absence of such basic qualification, which no longer holds good in the eye of law. Apparently, since the earlier decision of this Court and also the

factum of the earlier rules having been struck down and the new rules came in to force, have not come up for consideration, the matter requires to be looked afresh from a proper perspective.

In the circumstances, the writ petition is accordingly allowed. The respondents 1 to 3 are directed to reconsider the petitioner's claim as to which benefits she is entitled to as claimed in the writ petition afresh, and pass orders in accordance with law within a period of one month from the date of receipt of a copy of this order. No costs.

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11-07-2005

kvrm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Mr Bilal Nazki, the acting Chief Justice on this the 11th day of July, 2005

To

1. The District Educational Officer,
   Warangal.
2. The Director of School Education Andhra Pradesh,
   Hyderabad.
3. The Government of Andhra Pradesh, Rep.by its Secretary,
   Education Department, Secretariat

Hyderabad.

4. The Secretary Correspondent V.S.S.N.Bharathi Upper Primary School, Balasamudram, Hanamkonda,
Warangal District.

5. 2 CCs to G.P. for School Education, High Court Buildings,

Hyderabad (OUT)

6. 2 CD copies